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BEFORE THE ARIZONA CORPORATION COMMISSION

2007 MAR 14 P 2:52

COMMISSIONERS

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AZ CORP COMMISSION
DOCUMENT CONTROL

Arizona Corporation Commission

DOCKETED

MAR 14 2007

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IN THE MATTER OF THE APPLICATION OF
ARIZONA-AMERICAN WATER COMPANY,
INC., AN ARIZONA CORPORATION, FOR
APPROVALS ASSOCIATED WITH A
PROPOSED TRANSACTION WITH MARICOPA
COUNTY MUNICIPAL WATER
CONSERVATION DISTRICT NUMBER ONE TO
ALLOW THE CONSTRUCTION OF A SURFACE
WATER TREATMENT FACILITY KNOWN AS
THE WHITE TANKS PROJECT

DOCKET NO. W-01303A-05-0718

ARIZONA-AMERICAN WATER
COMPANY

OBJECTION TO DATA
REQUESTS

1 For the reasons given below, Arizona-American Water Company ("Arizona-American")
2 objects to responding to the March 9, 2007, Data Requests submitted by the Maricopa County
3 Municipal Water Conservation District No. 1 ("MWD"). A copy of MWD's Data Requests is
4 attached as Exhibit A.

5 **1. Background**

6 In its December 27, 2006, Procedural Order in this docket, the Commission provided
7 that: "no discovery requests shall be served after March 9, 2007."¹ Further, the Commission
8 clarified that: "The date of receipt of discovery requests is not counted as a day, and requests
9 received after 4:00 p.m. MST will be considered as received the next business day."²

10 **2. MWD's Data Requests Were Not Timely Served**

11 MWD began to fax its Data Requests to undersigned counsel at 5:04 p.m., as evidenced
12 by the fax header on the first page of Exhibit A. MWD did email the data requests to counsel,
13 but neither of these was timely. Exhibit B is a copy of an email from Debbie Amaral of Roshka

¹ Procedural Order, p. 5, line 3.

² *Id.* at fn. 1. Emphasis added.

1 DeWulf & Patten, PLC, which was sent at 4:48 p.m. Exhibit C is copy of an email from MWD
2 counsel Timothy Sabo of Roshka DeWulf & Patten, PLC, which was sent at 4:56 p.m.

3 By the terms of the Procedural Order, MWD's Data Requests are considered to have been
4 served on Monday, March 12, three days after the last day for service of data requests.
5 Therefore, Arizona-American is not required to respond to them.

6 **3. MWD's Data Requests Are Burdensome**

7 MWD's Data Requests consist of 46 questions, single spaced over four pages, not
8 counting the two-page cover letter. Under the best of circumstances, it would take several weeks
9 to respond to these questions, if all the persons needed to respond to the questions were
10 available. However, Mr. Broderick, to whom many of the questions are addressed, is out of the
11 state on a long-scheduled vacation and will not even return until the day before the evidentiary
12 hearings are scheduled to begin on March 19, 2006. The remaining responders are fully
13 occupied with other duties, including preparing for the same evidentiary hearings.

14 Further, virtually all of MWD's Data Requests either concern Arizona-American's
15 February 21, 2007, Direct Testimony, or its February 21, 2007, responses to MWD's First Set of
16 Data Requests to Arizona-American. MWD does not explain why it waited until March 12,
17 2007, 19 days later, to serve its follow-up data requests on Arizona-American.

18 Finally, serving data requests on late Friday afternoon—especially when the Procedural
19 Order sets a calendar-day deadline for responses—is hardly good faith. Many of the questions
20 call for lengthy documents or extensive responses. Even if the requests had been technically
21 timely, Arizona-American would still object to answering these extensive questions in less than
22 one week, particularly when the reason for the short time period was MWD's lack of diligence.

23 **4. Several Of MWD's Data Requests Are Objectionable On Other Grounds**

24 Several of MWD's Data Requests are objectionable on other grounds, including (without
25 limitation) relevance, vagueness, or just plain silliness. For example,


- 26 • Question 2.5: "Please describe the views of Arizona-American with respect to the
27 ratemaking process in Arizona."

- Question 2.7: "Please explain Mr. Broderick's experience in setting rates for cities, towns, special districts, or other municipal corporations."
- Question 2.23: "Follow-up to MWD 1-26. Does Mr. Broderick believe that CIAC or AIAC can be compared to 'crack?'"
- Question 2.24: "Please provide Mr. Broderick's views concerning the desirability of CIAC and AIAC."

5. Conclusion

For all these reasons, Arizona-American objects to responding to MWD's Data Requests, served on March 12, 2006.

RESPECTFULLY SUBMITTED on March 14, 2007.


Craig A. Marks
Craig A. Marks, PLC
3420 E. Shea Blvd
Suite 200
Phoenix, Arizona 85028
(602) 953-5260
Craig.Marks@azbar.org
Attorney for Arizona-American Water Company

1 Original and 13 copies **filed**
2 on March 14, 2007, with:

3
4 Docket Control
5 Arizona Corporation Commission
6 1200 West Washington
7 Phoenix, Arizona 85007

8
9 Copies of the foregoing **delivered**
10 on March 14, 2007, to:

11
12 Teena Wolfe
13 Administrative Law Judge
14 Arizona Corporation Commission
15 1200 West Washington St.
16 Phoenix, Arizona 85007

17
18 Copies of the foregoing **mailed**
19 on March 14, 2007, to

20
21 Kevin Torrey
22 Attorney, Legal Division
23 Arizona Corporation Commission
24 1200 West Washington St.
25 Phoenix, Arizona 85007

26
27 Steve Olea
28 Assistant Director, Utilities Division
29 Arizona Corporation Commission
30 1200 West Washington St.
31 Phoenix, Arizona 85007

32
33 Scott S. Wakefield
34 Chief Counsel
35 Residential Utility Consumer Office
36 1110 West Washington Street
37 Suite 220
38 Phoenix, Arizona 85007

39
40 Mary Lee Diaz Cortez
41 Residential Utility Consumer Office
42 1110 West Washington Street
43 Suite 220
44 Phoenix, Arizona 85007

45
46 Sheryl A. Sweeney
47 Ryley Carlock & Applewhite
48 One North Central Avenue
49 Suite 1200
50 Phoenix, Arizona 85004-7701
51

1 Jeffrey W. Crockett
2 Bradley S. Carroll
3 Snell & Wilmer LLP
4 400 E. Van Buren Street
5 Phoenix, Arizona 85004-2202
6

7 Timothy J. Sabo
8 Roshka DeWulf & Patten, PLC
9 One Arizona Center
10 400 E. Van Buren St., Suite 800
11 Phoenix, Arizona 85004
12

13 David W. Prescott
14 Vice President of Forward Planning
15 Trend Homes, Inc.
16 890 W. Elliott Rd.
17 Gilbert, Arizona 85233
18

19 Copies of the foregoing also **emailed**
20 to all parties on March 14, 2007.
21

22
23 By: 
24 Courtney Appellans
25

EXHIBIT A

ROSHKA DEWULF & PATTEN

ROSHKA DEWULF & PATTEN, PLC
ATTORNEYS AT LAW
ONE ARIZONA CENTER
400 EAST VAN BUREN STREET
SUITE 800
PHOENIX, ARIZONA 85004
TELEPHONE NO 602-256-6100
FACSIMILE NO 602-256-6800

Writer's Direct Dial Number
(602) 256-6100

Client Name
MWD - Az American
05-0718

March 9, 2007

TELECOMMUNICATION INFORMATION COVER SHEET

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PLEASE DELIVER THE FOLLOWING PAGES TO:

NAME	COMPANY	FACSIMILE NO.
Craig Marks, Esq.	Arizona-American	(602) 953-5330

FROM: Timothy J. Sabo, Esq.

TOTAL NUMBER OF PAGES INCLUDING THIS COVER PAGE:

IF YOU DO NOT RECEIVE ALL PAGE(S), PLEASE CALL: (602) 256-6100.

MESSAGE: 7 pages....Maricopa County Municipal Water Conservation District's 2nd Set of Data Requests

ROSHKA DeWULF & PATTEN, PLC
ATTORNEYS AT LAW
ONE ARIZONA CENTER
400 EAST VAN BUREN STREET
SUITE 800
PHOENIX, ARIZONA 85004
TELEPHONE NO 602-256-6100
FACSIMILE 602-256-6800

March 9, 2007

Via Electronic Mail

Mr. Craig Marks, Esq.
Craig A. Marks PLC
3420 East Shea Blvd, Ste 200
Phoenix, Arizona 85028

Re: Maricopa County Municipal Water Conservation District No. 1's Second Set of
Data Requests to Arizona-American Water Company - Docket No. W-01303A-
05-0718

Dear Mr. Marks:

Enclosed please find Maricopa County Municipal Water Conservation District
No. 1's second set of data requests to Arizona-American Water Company in this docket.

The words "AAW," "you," "Arizona-American" and "your" refer to Arizona-
American Water Company and any representative, including every person and/or entity
acting with, under the control of, or on behalf of AAW. For each answer, please identify
by name, title, and address each person ("respondent") providing information that forms
the basis for the response provided. If the respondent is different than the witness which
will sponsor the answer, also identify the sponsoring witness.

These data requests are continuing, and your answers or any documents supplied
in response to these data requests should be supplemented with any additional
information or documents that come to your attention after you have provided your initial
responses.

ROSHKA DeWULF & PATTEN

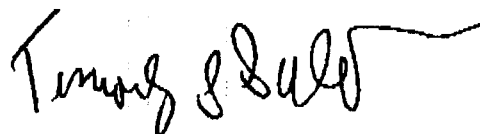
Mr. Craig Marks

March 9, 2007

Page 2

In accordance with the Commission's Procedural Order dated December 27, 2006, please provide any objection to these data requests by March 14, 2007; and please provide answers to these data requests by March 16, 2007. Please provide a response directly to the undersigned, with a copy to Jim Sweeney, General Manager, 14825 W. Grand Avenue, Surprise, Arizona 85374.

Very truly yours,

A handwritten signature in black ink, appearing to read "Timothy J. Sabo", with a long horizontal flourish extending to the right.

Timothy J. Sabo

TJS/da
Enclosures

**MWD's Second Set of Data Requests
To Arizona-American Water Company
Docket No. W-013003A-05-0718**

MWD 2.1 Mr. Goss's testimony claims that Arizona-American will incur significant additional pipeline costs under MWD's proposal. Please provide all cost estimates, data, and analyses supporting this assertion.

MWD 2.2 The electrical costs provided in response to MWD 1.83 appear to be low. Are they based on the assumption that Arizona-American will have access to MWD's low-cost power, as stated in your response to MWD 1.89?

MWD 2.3 Please indicate the basis of Arizona-American's "understanding" mentioned in your response to MWD 1.89?

MWD 2.4 Mr. Broderick's testimony (Rebuttal at 9) mentions the potential sale of capacity by Arizona-American. Does Arizona-American believe that any such sale would be subject to Arizona Corporation Commission approval under A.R.S. § 40-285?

MWD 2.5 Please describe the views of Arizona-American with respect to the ratemaking process in Arizona.

MWD 2.6 Mr. Broderick states that a major rate increase will be caused by MWD's proposal, if adopted, because of capital cost recovery. (Rebuttal at 11). Is Mr. Broderick referring only to the portion of the facility cost that will be borrowed, or does Mr. Broderick also include the portion financed by MWD funds?

MWD 2.7 Please explain Mr. Broderick's experience in setting rates for cities, towns, special districts, or other municipal corporations.

MWD 2.8 Please provide all data and work-papers supporting Mr. Broderick's statement that Arizona-American's "overall cost-of-capital remains the lowest". (Rebuttal at 10).

MWD 2.9 Please compare Arizona-American's cost of capital to that of MWD.

MWD 2.10 Mr. Broderick states that if MWD purchases a portion of Arizona-American's plant, the plant will be operated by Arizona-American. It was our understanding that under previous proposals, the plant would be operated by an affiliate of Arizona-American. Is that no longer the case?

MWD 2.11 Please provide a copy of the "master plan" mentioned by Mr. Day (Rebuttal, page 2). Please also provide any updated or similar plans.

**MWD's Second Set of Data Requests
To Arizona-American Water Company
Docket No. W-013003A-05-0718**

MWD 2.12 Please provide any water budget or similar documents for Arizona-American.

MWD 2.13 Please indicate the likely source or sources of the additional surface water mentioned by Mr. Day. (Rebuttal, page 4).

MWD 2.14 Please provide a copy of the Westcaps study mentioned by Mr. Gross. (Rebuttal, page 3).

MWD 2.15 Please provide a copy of the 2003 Agua Fria Master Plan mentioned by Mr. Gross (Rebuttal, page 4).

MWD 2.16 Please provide a copy of the master plan mentioned by Mr. Gross (Rebuttal, page 5)

MWD 2.17 Please provide the size of Arizona-American's transmission main infrastructure between the vicinity of the proposed sites of Arizona-American's and MWD's.

MWD 2.18 Please provide the name and CV or resume of the "design project manager" mentioned by Mr. Gross (Rebuttal at 8).

MWD 2.19 Please provide the name and CV or resume of the "senior construction management person" mentioned by Mr. Gross (Rebuttal at 8).

MWD 2.20 Please provide a copy of all communications between Arizona-American and Maricopa County concerning Arizona-American's proposed plant, or MWD's proposed plant. Include copies of all communications concerning the "Deputy Director" mentioned by Mr. Gross (Rebuttal at 13).

MWD 2.21 Please provide all cost-estimates to support the statements made by Mr. Gross on page 14 of his rebuttal testimony regarding transmission routing.

MWD 2.22

- (A) Is Arizona-American, or any affiliate of Arizona-American, the operator of the 80 MGD Phoenix plant mentioned by Mr. Gross (Rebuttal at 9).
- (B) If so, does Arizona-American contend that there will be any difficulties from the plant being operated by an entity other than the City of Phoenix?
- (C) If the answer to MWD 2.22(B) is no, then please explain how that answer is consistent with Mr. Gross's statements regarding dispatch issues (Rebuttal at 14-15).

MWD's Second Set of Data Requests
To Arizona-American Water Company
Docket No. W-013003A-05-0718

MWD 2.23 Follow-up to MWD 1-26. Does Mr. Broderick believe that CIAC or AIAC can be compared to "crack"?

MWD 2.24 Please provide Mr. Broderick's views regarding the desirability of CIAC and AIAC.

MWD 2.25 Does Mr. Broderick believe that a capital structure composed entirely of CIAC and AIAC would be appropriate? If not, why not?

MWD 2.26 Follow-up to MWD 1-28. Could the timing of Commission approval of the loan impact Arizona-American's construction schedule? If yes, please indicate the latest date for Commission approval that is consistent with your proposed in-service date.

MWD 2.27 Is Arizona-American willing to have the hook-up fees, if any, approved in this case, be declared interim and subject to refund?

MWD 2.28 Please provide an electronic copy (Excel, with formulas intact) of the Exhibits mentioned in response to MWD 1.37. If no electronic copy is available, please provide an enlarged version of those exhibits.

MWD 2.29 Follow-up to MWD 1-43. Does your response amount to a "yes." If not, please explain.

MWD 2.30 Please provide a copy of the most recent "overall 5-year capital expense forecasts" as mentioned in your response to MWD 1.44.

MWD 2.31 Follow-up to MWD 1-45. Will the CIAC amortization be included in Arizona-American's test year expenses?

MWD 2.32 Follow-up to MWD 1.47. Please provide an explanation of why Arizona-American believes that "treatment service" offered by a public service corporation is not subject to Arizona Corporation Commission rate regulation.

MWD 2.33. Follow-up to MWD 1.50. Please provide an answer to MWD 1.50 for future expansions to the plant.

MWD 2.34 Follow-up to MWD 1.66. Is the statement quoted in MWD 1.66 still correct with respect to standalone financing?

MWD 2.35 Follow-up to MWD 1-89. Does your response indicate that Arizona-American plans on obtaining electrical power for the plant from MWD? If yes, why Mr. Gross refer to an "APS Service Line" in his Rebuttal Testimony (page 6, line 22)?

**MWD's Second Set of Data Requests
To Arizona-American Water Company
Docket No. W-013003A-05-0718**

MWD 2.36 Follow up to JJD 1.6. Is your response to Staff data request JJD 1.6 still accurate? If not, please provide an updated response.

MWD 2.37 Follow-up to JJD 1.9. Is your response to Staff data request JJD 1.9 still accurate? If not, please provide an updated response.

MWD 2.38 Follow-up to JJD 1.13. Is your response to Staff data request JJD 1.13 still accurate? If not, please provide an updated response.

MWD 2.39 Please provide an update to the equity plan submitted by Arizona-American to the Commission on or about November 30, 2005.

MWD 2.40 Please provide an update, if any, to the "Comprehensive Master Plan" dated April 2006 provided in response to STF 2-5.

MWD 2.41 Please provide an update, if any, to the "Alternative Source of Supply Analysis" dated May 2006 provided in response to STF 2-5.

MWD 2.42 Please provide Arizona-American's projected capital structure and equity ratio for each of the next five years (assuming Arizona-American's requested hook-up fee is approved).

MWD 2.43 Follow-up to STF 3.5. Is your response to Staff data request STF 3.5 still accurate? If not, please provide an updated response.

MWD 2.44 Please provide a copy of the "business plan" mentioned in your response to STF 3.5. Please also provide any updates to that plan.

MWD 2.45. Please provide Arizona-American's projected amount of CIAC and AIAC as a percent of total capital for each of the next five years (assuming Arizona-American's requested hook-up fee is approved). Please calculate this response in the same manner as your response to MWD 1.25.

MWD 2.46 Follow-up to STF 3.7. Is your response to Staff data request STF 3.7 still accurate? If not, please provide an updated response.

EXHIBIT B

Craig Marks

From: Debbie Amaral [damaral@rdp-law.com]
Sent: Friday, March 09, 2007 4:48 PM
To: Craig.Marks@azbar.org
Cc: Tim Sabo
Subject: FW: Attached Image
Importance: High
Attachments: 05-0718 MWD 2nd Data Req_001.pdf

Deborah Amaral
Legal Secretary
ROSHKA, DeWULF & PATTEN, PLC
One Arizona Center
400 E. Van Buren Street, Suite 800
Phoenix, AZ 85004
Phone: 602-256-6100
Fax: 602-256-6800
Email: damaral@rdp-law.com

For more information about Roshka DeWulf & Patten, please see our website at www.rdp-law.com.

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From: Canon@rhd-law.com [mailto:Canon@rhd-law.com]
Sent: Friday, March 09, 2007 4:57 PM
To: Debbie Amaral
Subject: Attached Image
Importance: High

EXHIBIT C

Craig Marks

From: Tim Sabo [tsabo@rdp-law.com]
Sent: Friday, March 09, 2007 4:56 PM
To: Craig Marks
Cc: Thomas M Broderick
Subject: MWD data requests to AAW
Attachments: 05-0718 MWD 2nd Data Req_001.pdf

Craig here are the data requests I mentioned this morning. Call if you have any questions.

Timothy J. Sabo
Roshka DeWulf & Patten, PLC
One Arizona Center
400 East Van Buren, Suite 800
Phoenix, AZ 85004
Phone: 602-256-6100
Fax: 602-256-6800
email: tsabo@rdp-law.com

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